

### REMARKS

Applicant has amended claims 1, 3-6, 10, 14 and 22-27. Claims 8-9 and 20-21 have been canceled. New claims 28-30 have been added. These changes have been made to place the claims in better form for examination and to further obviate the 35 U.S.C. §§102(b), 103(a) and 112 rejections as set forth in the Office Action dated May 4, 2006. It is believed that none of these amendments constitute new matter. It is submitted that these amendments obviate the rejections. Withdrawal of these rejections is respectfully requested.

The Examiner has objected to claim 1 for the omission of an "A" at the beginning of the sentence. Applicant has canceled claim 1. Withdrawal of this objection is respectfully requested.

The Examiner has objected to claim 20 because the claim recites "stearyl-ACP desaturase". Applicant has canceled claim 20. Withdrawal of this objection is respectfully requested.

The Examiner has objected to claim 21 because the claim does not recite that the claimed plant has modified fatty acid or carbohydrate metabolism. Applicant has canceled claim 21. Withdrawal of this objection is respectfully requested.

The Examiner has rejected claims 8 and 9 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicant has canceled claims 8 and 9. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 1-27 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicant has submitted a deposit of the seed to ATCC. The deposit will be available to the Commissioner during the pendency of this application. Additionally, the undersigned avers that:

- a) access to the invention will be afforded to the Commissioner during the pendency of the application;
- b) all restrictions upon availability to the public will be irrevocably removed upon the granting of a patent;

- c) the deposit will be maintained in a public depository for a period of 30 years or 5 years after the last request or for the enforceable life of the patent, whichever is longer;
- d) the viability of the biological material at the time of deposit will be tested; and
- e) the deposit will be replaced if it should ever become inviable or when requested at ATCC.

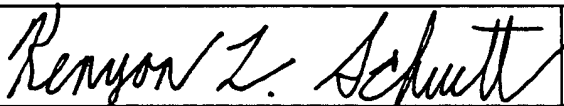
Applicant will amend the claims with the ATCC Accession Number via a 37 C.F.R. §1.312 amendment upon receipt of a Notice of Allowance from the Examiner.

The Examiner has rejected claims 8, 9 and 24-27 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has canceled claims 8 and 9 and has amended claims 24-27. Applicant's Attorney spoke with Examiner on August 3, 2006 regarding the rejection of claims 24-27. Examiner indicated that he inadvertently rejected claims 24-27 and asked Applicant to make a note of this in the Remarks section. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claims 8, 9 and 24-27 under 35 U.S.C. §102(b) as being anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over White et al. (HortScience 28(7): 754-755, 1993). Applicant has canceled claims 8 and 9 and has amended claims 24-27. Additionally, Applicant submits there are numerous significant differences between celery cultivar ADS-2 of the present invention and Florida Slobolt M68. Celery cultivar ADS-2 is tolerant to blackheart, while Florida Slobolt M68 is susceptible to blackheart. Celery cultivar ADS-2 is susceptible to Early Blight (*Cercospora apii*), while Florida Slobolt M68 is tolerant to Early Blight. Celery cultivar ADS-2 is tolerant to node cracking, while Florida Slobolt M68 is susceptible to node cracking. Celery cultivar ADS-2 is tolerant to Brown Stem, while Florida Slobolt M68 is not tolerant to Brown Stem. Celery cultivar ADS-2 has a higher number of inner petioles, 7, when compared to Florida Slobolt M68, which has an average of 1-3 inner

petioles. Celery cultivar ADS-2 is susceptible to bolting, while Florida Slobolt M68 is more tolerant to bolting. In view of the above differences, Applicant asserts that celery cultivar ADS-2 is both novel and nonobvious relative to Florida Slobolt M68. Withdrawal of these rejections is respectively requested.

In view of the above amendments and remarks, it is submitted that the claims satisfy the provisions of 35 U.S.C. §§ 102(b), 103(a) and 112. Reconsideration of this application and an early notice of allowance are respectfully requested.

<b>SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED</b>					
NAME AND REG. NUMBER	Kenyon L. Schuett, Reg. No. 44,324				
SIGNATURE			DATE	August 4, 2006	
Address	Jondle & Associates P.C. 858 Happy Canyon Road, Suite 230				
City	Castle Rock	State	CO	Zip Code	80108
Country	U.S.A.	Telephone	303-799-6444	Fax	303-799-6898